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March 3, 2006

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

**Re: Amendment of Part 2 of the Commission's Rules to Allocate Spectrum  
Below 3 GHz for Mobile and Fixed Service to Support the Introduction  
of New Advanced Wireless Services, including Third Generation  
Wireless Systems (ET Docket No. 00-258)  
and  
Amendment of Parts 1, 21, 73 74 and 101 of the Commission's Rules to  
Facilitate the Provision of Fixed and Mobile Broadband Access,  
Educational and other Advanced Services in the 2150-2162 MHz Bands  
(WT Docket No. 03-66)  
NOTICE OF ORAL EX PARTE PRESENTATION**

Dear Ms. Dortch:

On March 2, 2006, John Ogren, Partner and CEO of SpeedNet, L.L.C. ("SpeedNet"), and the undersigned counsel to SpeedNet met with John Guisti of Commissioner Copp's office regarding reallocation of BRS-1 spectrum in the first above-referenced proceeding and EBS lease terms in the second above-referenced proceeding. At this meeting, SpeedNet advocated the points summarized in the attached exhibit. Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this summary of our presentation is being filed electronically. Should any questions arise concerning this matter, kindly contact the undersigned.

Very truly yours,

/s/ Suzanne S. Goodwyn

Suzanne S. Goodwyn  
Counsel to SpeedNet, L.L.C.

cc (via e-mail): John Guisti, Esquire

## **SpeedNet, L.L.C.**

**March 2, 2006**

### **Issues of Concern:**

- 1) Reallocation of BRS 1 and 2 licenses from the 2.1 GHz band to the 2.5 GHz band.**
  - a. Any new or expanded operations on any BRS 1 and 2 channel should be deemed primary operations until ninety days after written notice that negotiations with the AWS entrant are to commence.
  - b. The Commission should require that AWS licensees uniformly relocate any and all existing BRS operations throughout a BRS station's geographic service area ("GSA") regardless as to whether the AWS licensee is prepared to serve such areas.
  - c. The Commission must require that AWS entrants provide comparable facilities when relocating BRS facilities that have deployed service. The Commission implemented construction requirements on use of these channels in the 2.1 GHz that SpeedNet followed and now the FCC cannot expect to relocate these operations without adequate reimbursement.
  - d. The Commission should not impose a sunset rule that would alleviate AWS entrants from such reimbursement expenses after a certain deadline.
  
- 2) EBS Lease Terms Should Not Be Limited to a 15 Year Term**
  - a. Such lease terms should be determined by the market place, not by FCC mandate. Operator can provide more to an EBS Licensee through longer terms due to having spectrum to build out an expensive network and operate longterm.
  - b. EBS licensees are capable of negotiating appropriate terms for their own licenses and do not need such protection.
  - c. An operator's investment into a broadband system requires assurance that it will have reasonable access to spectrum to ensure a return on its capital investment.
  
- 3) The Commission Should Eliminate Shared Use of the 2496-2500 MHz band**
  - a. SpeedNet cannot share its operations with Globalstar's MSS-satellites and expect to be able to shield its services from interference. Likewise, it cannot share spectrum with BAS and those operations must be relocated out of the 2496-2500 MHz band. The Commission should restrict the emissions of Part 18 devices for similar reasons. Both BAS and MSS agree that joint operations cannot coexist and that interference will occur to BRS 1 licensees.
  - b. Reallocating the BRS 1 channels to spectrum that is already encumbered with other services cannot be considered comparable spectrum.